

Assembly Constitutional Amendment

No. 13

Introduced by Assembly Members Gray and Olsen

June 9, 2016

Assembly Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 5 of Article II thereof, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

ACA 13, as introduced, Gray. Presidential elections.

The California Constitution requires the Legislature to provide for partisan elections for presidential candidates, including an open presidential primary where the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit of noncandidacy.

Existing statutory law provides for a presidential primary election at which delegations to the national conventions of political parties are chosen. Existing law requires a voter who is registered as preferring a political party participating in a presidential primary election to be furnished a ballot for the political party that he or she prefers, on which the presidential candidates for that political party are listed. Existing law prohibits a voter who is not registered as disclosing a preference for any one of the political parties participating in the election from voting the ballot of a political party unless the political party, by party

rule duly noticed to the Secretary of State, authorizes a person who has declined to disclose a party preference to vote its ballot.

Existing law does not provide for a candidate who is not seeking the nomination of a political party to participate in the presidential primary election. However, existing law permits such a presidential candidate to be nominated, and have his or her name printed on the general election ballot, by filing independent nomination papers signed by a specified percentage of voters. Existing law also provides for write-in candidates at the presidential general election.

This measure would, instead, require the Legislature to provide for a presidential primary election at which every ballot contains the names of all candidates for the office of President of the United States recognized by the Secretary of State in accordance with applicable statutes, including candidates who are not seeking the nomination of a political party for that office. This measure would authorize a voter to vote for any candidate at the presidential primary election without regard to the political party preference, or lack of political party preference, of the voter. This measure would require the Legislature to enact statutes requiring the Secretary of State to report to each political party the number of votes cast at the presidential primary election for each candidate seeking the nomination of that party in a manner that segregates the votes by the political party preference, or lack of political party preference, of the voters. This measure would authorize a political party to count the votes from the presidential primary election according to the rules of the party and would authorize the party to place a candidate of its choice on the general election ballot. This measure would require the Legislature to provide for a presidential general election at which every ballot contains the names of the candidates selected by each political party that participated in the preceding presidential primary election and the name of the candidate who received the highest number of voters at the preceding presidential primary election among candidates not seeking the nomination of a political party.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

- 1 *Resolved by the Assembly, the Senate concurring,* That the
- 2 Legislature of the State of California at its 2015–16 Regular
- 3 Session commencing on the first day of December 2014, two-thirds
- 4 of the membership of each house concurring, hereby proposes to

1 the people of the State of California that the Constitution of the
2 State be amended as follows:

3 That Section 5 of Article II thereof is amended to read:

4 SEC. 5. (a) A ~~voter-nomination~~ *voter-nominated* primary
5 election shall be conducted to select the candidates for
6 congressional and state elective offices in California. All voters
7 may vote at a voter-nominated primary election for any candidate
8 for congressional and state elective office without regard to the
9 political party preference disclosed by the candidate or the voter,
10 provided that the voter is otherwise qualified to vote for candidates
11 for the office in question. The candidates who are the top two
12 vote-getters ~~at a~~ *in the* voter-nominated primary election for a
13 congressional or state elective office shall, regardless of party
14 preference, compete in the ensuing general election.

15 (b) Except as otherwise provided by Section 6, a candidate for
16 a congressional or state elective office may have his or her political
17 party preference, or lack of political party preference, indicated
18 upon the ballot for the office in the manner provided by statute. A
19 political party or party central committee shall not nominate a
20 candidate for ~~any a~~ congressional or state elective office at the
21 voter-nominated ~~primary~~ *primary election*. This subdivision shall
22 not be interpreted to prohibit a political party or party central
23 committee from endorsing, supporting, or opposing any candidate
24 for a congressional or state elective office. A political party or
25 party central committee shall not have the right to have its preferred
26 candidate participate in the general election for a voter-nominated
27 office other than a candidate who is one of the two highest
28 vote-getters at the primary election, as provided in subdivision (a).

29 (c) The Legislature shall provide for partisan elections for
30 ~~presidential candidates, and~~ political party and party central
31 ~~committees, including an open presidential primary whereby the~~
32 ~~candidates on the ballot are those found by the Secretary of State~~
33 ~~to be recognized candidates throughout the nation or throughout~~
34 ~~California for the office of President of the United States, and those~~
35 ~~whose names are placed on the ballot by petition, but excluding~~
36 ~~any candidate who has withdrawn by filing an affidavit of~~
37 ~~noneandidacy.~~ *committees.*

38 (d) ~~A political party that participated in a primary election for~~
39 ~~a partisan office pursuant to subdivision (c) has the right to~~
40 ~~participate in the general election for that office and shall not be~~

1 ~~denied the ability to place on the general election ballot the~~
2 ~~candidate who received, at the primary election, the highest vote~~
3 ~~among that party's candidates.~~

4 *(d) The Legislature shall provide for a presidential primary*
5 *election at which every ballot contains the names of all candidates*
6 *for the office of President of the United States recognized by the*
7 *Secretary of State in accordance with statutes enacted by the*
8 *Legislature, including candidates who are not seeking the*
9 *nomination of a political party for that office. A voter may vote*
10 *for any candidate at the presidential primary election without*
11 *regard to the political party preference, or lack of political party*
12 *preference, of the voter. The Legislature shall enact statutes that*
13 *require the Secretary of State to report to each political party the*
14 *number of votes cast at the presidential primary election for each*
15 *candidate seeking the nomination of that party for the office of*
16 *President of the United States in a manner that segregates the*
17 *votes by the political party preference, or lack of political party*
18 *preference, of the voters. A political party may count the votes*
19 *from the presidential primary election according to the rules of*
20 *the party and may place a candidate of its choice on the general*
21 *election ballot.*

22 *(e) The Legislature shall provide for a presidential general*
23 *election at which every ballot contains the names of the candidates*
24 *selected by each political party that participated in the preceding*
25 *presidential primary election and the name of the candidate who*
26 *received the highest number of votes at the preceding presidential*
27 *primary election among candidates not seeking the nomination of*
28 *a political party for the office of President of the United States.*